

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-247

13 **ERIN RENEE LEIMGRUBER**
2020 E. Connelly Road
14 Holtville, CA 92250

A C C U S A T I O N

15 **Registered Nurse License No. 636139**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 14, 2004, the Board of Registered Nursing issued Registered
24 Nurse License Number 636139 to Erin Renee Leimgruber (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of
3 the crime in order to fix the degree of discipline or to determine if the conviction
is substantially related to the qualifications, functions, and duties of the licensee in
question.

4 As used in this section, "license" includes "certificate," "permit,"
5 "authority," and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed
8 nurse or deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

10

11 (f) Conviction of a felony or of any offense substantially related to the
12 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

13

14 10. Section 2762 of the Code states:

15 In addition to other acts constituting unprofessional conduct within the
16 meaning of this chapter it is unprofessional conduct for a person licensed under
this chapter to do any of the following:

17

18 (b) Use any controlled substance as defined in Division 10 (commencing
19 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
20 or in a manner dangerous or injurious to himself or herself, any other person, or
the public or to the extent that such use impairs his or her ability to conduct with
21 safety to the public the practice authorized by his or her license.

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23 11. Section 2765 of the Code states:

24 A plea or verdict of guilty or a conviction following a plea of *nolo*
25 *contendere* made to a charge substantially related to the qualifications, functions
and duties of a registered nurse is deemed to be a conviction within the meaning
26 of this article. The board may order the license or certificate suspended or
revoked, or may decline to issue a license or certificate, when the time for appeal
27 has elapsed, or the judgment of conviction has been affirmed on appeal or when
an order granting probation is made suspending the imposition of sentence,
28 irrespective of a subsequent order under the provisions of Section 1203.4 of the

1 Penal Code allowing such person to withdraw his or her plea of guilty and to enter
2 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
3 accusation, information or indictment.

4 **REGULATORY PROVISIONS**

5 12. California Code of Regulations, title 16, section 1444, states:

6 A conviction or act shall be considered to be substantially related to the
7 qualifications, functions or duties of a registered nurse if to a substantial degree it
8 evidences the present or potential unfitness of a registered nurse to practice in a
9 manner consistent with the public health, safety, or welfare. Such convictions or
10 acts shall include but not be limited to the following:

11 (a) Assaultive or abusive conduct including, but not limited to, those
12 violations listed in subdivision (d) of Penal Code Section 11160.

13 (b) Failure to comply with any mandatory reporting requirements.

14 (c) Theft, dishonesty, fraud, or deceit.

15 (d) Any conviction or act subject to an order of registration pursuant to
16 Section 290 of the Penal Code.

17 13. California Code of Regulations, title 16, section 1445 states:

18

19 (b) When considering the suspension or revocation of a license on the
20 grounds that a registered nurse has been convicted of a crime, the board, in
21 evaluating the rehabilitation of such person and his/her eligibility for a license
22 will consider the following criteria:

23 (1) Nature and severity of the act(s) or offense(s).

24 (2) Total criminal record.

25 (3) The time that has elapsed since commission of the act(s) or
26 offense(s).

27 (4) Whether the licensee has complied with any terms of parole,
28 probation, restitution or any other sanctions lawfully imposed against the
licensee.

(5) If applicable, evidence of expungement proceedings pursuant
to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

26 **COST RECOVERY**

27 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request
28 the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 **DRUGS AT ISSUE**

4 15. Alprazolam, commonly available under the brand name "Xanax," is a depressant
5 in the benzodiazepine family and is a Schedule IV controlled substance as designated by Health
6 and Safety Code, section 11057, subdivision (d)(1). It is used to treat anxiety disorders, panic
7 disorders, and anxiety.

8 16. Clonazepam is an anti-anxiety medication in the benzodiazepine family and is a
9 Schedule IV controlled substance as designated by Health and Safety Code, section 11057,
10 subdivision (d)(7).

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Sept. 22, 2011 Criminal Conviction for Arson of an Inhabited Structure on July 18, 2011)**

13 17. Respondent is subject to disciplinary action under Code sections 490 and 2761,
14 subdivision (f) in that she was convicted of a crime that is substantially related to the
15 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

16 a. On or about August 25, 2011, in a criminal proceeding entitled *The People*
17 *of the State of California v. Erin Renee Leimgruber*, in San Diego County Superior Court Central
18 Division, case number SCD235398, Respondent was convicted on her plea of guilty of violating
19 Penal Code (PC) section 451, subdivision (b), arson of an inhabited structure or property, a
20 felony. Respondent was also charged with violating four counts of PC section 451, subdivision
21 (b), arson of an inhabited structure or property, four counts of PC section 459, burglary of the
22 first degree, felonies, and one count of PC section 242, battery, a misdemeanor, which were
23 dismissed as a result of a plea bargain.

24 b. As a result of the conviction, on or about September 22, 2011, Respondent
25 was sentenced to three years formal probation and ordered to serve 77 days under the custody of
26 the San Diego County Sheriff, with credit for 67 actual days served and 10 days pursuant to PC
27 section 2933.1. Respondent was further ordered to register as an arson offender and pay \$224.00
28 in fees and \$1,200.00 in fines.

1 c. The facts that led to the conviction are that Respondent had an on-going
2 child custody dispute with her estranged husband. On or about July 18, 2011, Respondent went
3 to his home office during business hours, ran upstairs, and lit a mattress on fire in a bedroom.
4 Police were called and she was arrested.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct - Use Of Drugs In a Dangerous Manner)**

7 18. Respondent is subject to disciplinary action under Code sections 2762,
8 subdivision (b), in that she used controlled substances in a manner dangerous to herself and the
9 public. The circumstances are as follows:

10 19. On or about March 9, 2012, Respondent drove her vehicle westbound along
11 Interstate 8 in Pine Valley, California, at over 90 miles per hour while weaving from side to side
12 within the number one lane, and also crossing into the number two lane and onto the asphalt
13 center median. As a patrol vehicle followed her, Respondent accelerated to 105 miles per hour
14 while weaving between the number one and number two lanes. The officer activated his patrol
15 vehicle's emergency lights and siren to make an enforcement stop. Thereafter, Respondent
16 slowed down and pulled over to the asphalt shoulder. Upon contact, Respondent appeared
17 unfocused, emotional, and talkative. Respondent was inattentive to the officer's questions and
18 her speech was slow and slurred. Respondent showed objective symptoms of intoxication and
19 admitted to taking Xanax prior to leaving Holtville, California and driving to San Diego,
20 California. Respondent took a breath test, which tested negative for alcohol. Respondent was
21 then transported to the El Cajon California Highway Patrol (El Cajon CHP) Office to undergo
22 Drug Recognition Evaluation test.

23 20. At the El Cajon CHP, Respondent consented to the drawing of two vials of blood,
24 which were later sent to the San Diego County Sheriff's Department Regional Crime Laboratory
25 (Sheriff's Crime Lab). Results of Respondent's blood test provided by the Controlled Substances
26 Analysis and Narcotics Unit of the Sheriff's Crime Lab indicated the presence of
27 benzodiazepines, including alprazolam and clonazepam.

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1 **PRAYER**


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 636139, issued to
5 Erin Renee Leimgruber;

6 2. Ordering Erin Renee Leimgruber to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
10

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12 DATED: OCTOBER 09, 2012

13 *for* 
14 LOUISE R. BAILEY, M.ED., RN
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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